

REMARKS

Status of the Claims

Claims 1-4, 8-17, 24-52, and 54-68 are pending, including new claims 55-68 added herein.

The first Office action rejected all original claims 1-54 under 35 U.S.C. § 101. The first Office action also rejected certain claims under 35 U.S.C. § 103, but no prior-art rejection was applied to claims 7-11, 14-17, 24-52, and 54.

This response cancels all claims rejected under § 103 or amends the independent claims to recite features from the dependent claims not rejected under § 103. In particular, claims 5-7, 18-23, and 53 are canceled by this response. Moreover, independent claim 1 is amended to include the limitations of its now-canceled dependent claim 7 and intervening claims 5 and 6. Finally, new independent claim 54 is derived from original and now-canceled claim 14, rewritten in independent form including its base claims 1, 12, and 13.

Additionally, all independent claims have been amended (1, 24, and 38) or written (54) to overcome the § 101 rejections, as explained in greater detail below.

§ 101 Rejections

Under the Office's Interim § 101 Guidelines released in 2006, patent examiners ask four questions when judging the patentability of an invention's subject matter: (1) Does the claimed invention fall within one of the four allowed categories: process, machine, manufacture, and composition? (2) If so, does the claimed invention encompass an unpatentable judicial exception to the allowed categories, such as a natural phenomenon or abstract algorithm? (3) If the invention encompasses a judicial exception, does the invention have a practical application? (4) If the invention has a practical application, does it still wholly preempt all substantial applications of the judicial exception?

All claims satisfy the first question. Independent claims 1 and 55 recite a "machine vision method" and consequently are within the statutory category for processes. Similarly for independent method claim 24 and independent method claim 38, which recites a "color image data processing method." Independent claim

54 recites a “computer-readable medium,” which is well recognized as falling within the statutory category for articles of manufacture.

Original claims 7 and 14, which now corresponds to claims 1 and 55, respectively, were rejected under step (3) of the § 101 inquiry as not having a tangible result. Office action at 2. However, claims 1 and 55 now recite the step of “rendering said color image data” and therefore have a practical application as shown by a useful, concrete, and tangible result. The tangible nature of the result is evident from the fact that rendering image data is a real-world result observable by a person. This is distinguishable from a case of merely calculating the price of an item (arguable not a tangible result); it is instead more analogous to calculating the price of an item and conveying that price to a customer (a tangible result). See Robert Weinhardt, Overview of Interim Guidelines for Subject Matter Eligibility § 3, www.uspto.gov/web/offices/pac/compexam/interim_guide_subj_matter_eligibility.html.

Independent claims 1 and 55 therefore pass step (3) of the § 101 inquiry. Moreover, claims 1 and 55 pass step (4), as they do not wholly preempt all substantial applications of the underlying natural phenomena, which the Office action has characterized as “sensing light energy.” Claims 1 and 55 and their dependent claims should therefore be allowed.

Original independent claims 24 and 38 were rejected for failing step 2 of the § 101 inquiry for reciting merely natural phenomena, *viz.*, sensing light energy. Office action at 2. However, claims 24 and 38 now recite the step of “rendering an image based on said color image data.” That step is not a natural phenomena and therefore takes these claims past step (2) of the analysis. Claims 24 and 38 satisfy steps (3) and (4) for reasons apparent from the discussion above with regard to claims 1 and 55. Claims 24 and 38 and their dependent claims should therefore be allowed.

Finally, original claim 54 was apparently rejected under the same rationale as claim 1. See Office action at 3 (referring to “computer-readable medium” claims 53 and 45, but intending to refer to claims 53 and 54, it seems). However, claim 54 has been amended to refer to “rendering an image based on said color image data” and therefore satisfies § 101 for reasons similar to those discussed above in relation to the other claims.

Conclusion

The Applicant submits that the application is condition for allowance and respectfully requests a Notice of Allowability. If the Examiner has any concerns about the application, or if the undersigned attorney can assist in expediting the allowance of the application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,

VideolQ, Inc.

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By: 

Matthew C. Phillips
Registration No. 43,403

STOEL RIVES LLP
900 SW Fifth Avenue, Suite 2600
Portland, Oregon 97204-1268
Telephone: (503) 224-3380
Facsimile: (503) 220-2480

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